

REMARKS

By this Amendment, the claims are amended to merely clarify the scope of the recited subject matter. Claims 1-15 are pending. Reconsideration in view of the above amendment and following remarks is respectfully requested.

In response to Applicants' previously asserted arguments, the Office has maintained the rejection of claims 1, 2, 1, 12 and 14 under 35 U.S.C. § 102(e) over Tanaami (U.S. Patent Application 2004/0182710 A1) and claims 3-10, 13 and 15 were rejected 35 U.S.C. 103(a) over Tanaami. The Office Action asserted that, contrary to Applicants' previous patentability arguments, Tanaami teach or suggests all the features recited in the rejected claims.

Applicants traverse the prior art rejections because Tanaami fails to teach or suggest the claimed focus detecting device configured so that light emitted from a light source is made into a plurality of light beams to be incident on a sample, wherein reflected light from the sample is detected at a detector, and the objective lens' focusing condition is evaluated in accordance with light receiving positions of the spot beams as recited in independent claims 1 and 11 and their respective dependent claims. Moreover, Tanaami fails to teach or suggest the claimed focusing-state calculator that calculates a focusing state of the microscope based on output signals from the photodetector, as recited in independent claims 1 and 11 and their respective dependent claims.

To the contrary, Tanaami merely discloses a microscopic spectrometer for obtaining spectrometric information of fluorescence emitted from a sample. The reader and system of Tanaami is designed to obtain spectrum of multi-color fluorescence by irradiating the sample with exciting light from the light source and introducing the fluorescence emitted from the sample to a grating or a Fourier spectrometer. The user can thus observe an electrophoretic migration/electrocataphoresis pattern.

Thus, Tanaami merely discloses a spectroscopic apparatus for obtaining spectrum of multi-color fluorescence upon irradiating a sample with light and introducing fluorescence emitted from the sample to a grating or a Fourier spectrometer. Tanaami never refers to obtaining focus detection information based on light receiving positions on the photodetector caused by a multi-spot beam.

FIG. 6 of Tanaami merely shows the configuration in which a sample is irradiated with a single light beam emitted from a laser light source. Fluorescence emitted from the sample is incident on a diffraction grating arranged at a position different from the light source. The fluorescence that travels with diffraction angles corresponding to wavelengths of the fluorescence is detected by a detector. Thus, wavelengths of the fluorescence are measured in accordance with light receiving positions on the photodetector.

In contrast, the claimed invention is a focus detecting device configured so that light emitted from a light source, such as a laser light source, is made into a plurality of light beams to be incident on a sample, wherein reflected light from the sample is detected at a detector, and the objective lens' focusing condition is evaluated in accordance with light receiving positions of the spot beams. As a result, Tanaami and the claimed invention are fundamentally different by virtue of the number of spot beams with which a sample is irradiated and what is calculated from output signals of the detector.

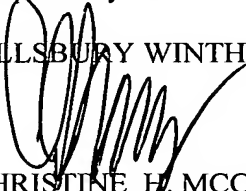
As explained previously, the multi-beam producing member is disposed between the light source and the sample, which is the structure for irradiating the sample with a plurality of spot beams. Tanaami fails to disclose any such structure or operation. Moreover, Tanaami fails to teach or suggest the claimed focusing-state calculator that calculates a focusing state of the microscope based on output signals from the photodetector. Accordingly, independent claims 1 and 11 are patentable over Tanaami. Claims 2-10 and 12-15 recite additional features of the invention and are allowable for the same reasons as claims 1 and 11 and for the additional features recited therein.

In view of the above amendments and remarks, Applicants respectfully submit that all the claims are allowable and that the entire application is in condition for allowance. Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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